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2009

Committee on Economic and Monetary Affairs

2008/0191(COD)

19.1.2009

AMENDMENTS 27 - 137

Draft report

Othmar Karas

(PE416.308v01-00)

on the proposal for a directive of the European Parliament and of the Council amending Directives 2006/48/EC and 2006/49/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements and crisis management

Proposal for a directive – amending act

(COM(2008)0602 – C6-0339/2008 – 2008/0191(COD))

Amendment 27

Ieke van den Burg, Pervenche Berès

Proposal for a directive – amending act

Recital 1

Text proposed by the Commission

(1) Article 3 of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions allows Member States to provide for special prudential regimes for credit institutions which are permanently affiliated to a central body since 15 December 1977, provided that those regimes were introduced in national laws no later than 15 December 1979. Those time limits prevent Member States, especially those which have acceded to the European Union since 1980, to introduce the same regimes for similar affiliations of credit institutions which have been set up later on their territories. It is therefore appropriate to remove the time limits set out in Article 3, in order to ensure equal conditions for competition between credit institutions in Member States. The Committee of European Banking Supervisors should provide for **non-binding** guidelines in order to enhance the convergence of supervisory practices in this regard.

Amendment

(1) Article 3 of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions allows Member States to provide for special prudential regimes for credit institutions which are permanently affiliated to a central body since 15 December 1977, provided that those regimes were introduced in national laws no later than 15 December 1979. Those time limits prevent Member States, especially those which have acceded to the European Union since 1980, to introduce the same regimes for similar affiliations of credit institutions which have been set up later on their territories. It is therefore appropriate to remove the time limits set out in Article 3, in order to ensure equal conditions for competition between credit institutions in Member States. The Committee of European Banking Supervisors should provide for guidelines in order to enhance the convergence of supervisory practices in this regard.

Or. en

Justification

The Committee of European Banking Supervisors has not the mandate to come up with binding guidelines at this moment. Therefore, the addition of the words 'non-binding' is redundant. Nevertheless, we should not make the Directive to rigid for possible future changes in the mandate of CEBS.

Amendment 28
Antolín Sánchez Presedo

Proposal for a directive – amending act
Recital 3

Text proposed by the Commission

(3) Therefore, it is important to lay down criteria for those capital instruments to be eligible for original own funds of credit institutions and to align the provisions in Directive 2006/48/EC to that agreement. The amendments to Annex XII to Directive 2006/48/EC result directly from the establishment of those criteria. ***The eligibility criteria should refer to the most subordinated instruments of a credit institution that does not have proprietors or shareholders under national law, such as certain members' certificates of cooperative banks, insofar as the respective capital has been paid up and ranks after all other claims.***

Amendment

(3) Therefore, it is important to lay down criteria for those capital instruments to be eligible for original own funds of credit institutions and to align the provisions in Directive 2006/48/EC to that agreement ***while taking into account the importance of strong core capital base to be able to absorb losses and maintain lending during periods of severe economic and financial stress.*** The amendments to Annex XII to Directive 2006/48/EC result directly from the establishment of those criteria. ***Original own funds referred to in Article 57(a) of Directive 2006/48/EC include all instruments that are regarded as equity capital, rank after all other claims during liquidation and fully absorb losses pari passu with ordinary shares on a going concern basis. These instruments may include instruments providing preferential rights for dividend payment on a non cumulative basis, provided that they are included in Article 22 of Directive 86/635/EEC, rank after all other claims during liquidation and fully absorb losses on a going concern basis pari passu with ordinary shares. Original own funds referred to in Article 57(a) of Directive 2006/48/EC also include any other instrument under credit institutions' statutory terms taking into account the specific constitution of mutuals, cooperative societies and similar institutions and which are deemed broadly equivalent to ordinary shares in terms of their capital qualities. Instruments that do not rank after all other claims during liquidation or that do not absorb losses on a going concern basis pari passu with ordinary shares are included in the***

Amendment 29

John Purvis

**Proposal for a directive – amending act
Recital 3**

Text proposed by the Commission

(3) Therefore, it is important to lay down criteria for those capital instruments to be eligible for original own funds of credit institutions and to align the provisions in Directive 2006/48/EC to that agreement. The amendments to Annex XII to Directive 2006/48/EC result directly from the establishment of those criteria. ***The eligibility criteria should refer to the most subordinated instruments of a credit institution that does not have proprietors or shareholders under national law, such as certain members' certificates of cooperative banks, insofar as the respective capital has been paid up and ranks after all other claims.***

Amendment

(3) Therefore, it is important to lay down criteria for those capital instruments to be eligible for original own funds of credit institutions and to align the provisions in Directive 2006/48/EC to that agreement ***while taking into account the importance of a strong core capital base to be able to absorb losses.*** The amendments to Annex XII to Directive 2006/48/EC result directly from the establishment of those criteria. ***Original own funds referred to in Article 57(a) of Directive 2006/48/EC include all instruments that are regarded under national law as equity capital, rank pari passu with ordinary shares during liquidation and fully absorb losses pari passu with ordinary shares on a going concern basis. These may include instruments providing preferential rights for dividend payment on a non cumulative basis, provided that they are included in Article 22 of Directive 86/635/EEC, rank pari passu with ordinary shares during liquidation and fully absorb losses on a going concern basis pari passu with ordinary shares. Original own funds referred to in Article 57(a) of Directive 2006/48/EC also include any other instrument under credit institutions' statutory terms taking into account the specific constitution of mutuals, cooperative societies and similar institutions and which are deemed***

equivalent to ordinary shares in terms of their capital qualities. Instruments that do not rank pari passu with ordinary shares during liquidation or that do not absorb losses on a going concern basis pari passu with ordinary shares are included in the category of hybrids referred to in Article 57(ca) of Directive 2006/48/EC.

Or. en

Justification

The main prudential purpose of capital is to absorb losses, not to maintain lending during periods of economic and financial stress. Requiring equity instruments in Article 57(a) to 'rank after all other claims' (as in the parliament's report) is not clear with respect to other shares which may not be regarded as claims. This ambiguity is removed if equity instruments rank pari passu (hand in hand) with ordinary shares. Instruments issued by mutuals, cooperative societies and similar institutions should be equivalent to ordinary shares in terms of their capital qualities.

Amendment 30 **Paolo Bartolozzi**

Proposal for a directive – amending act **Recital 3**

Text proposed by the Commission

(3) Therefore, it is important to lay down criteria for those capital instruments to be eligible for original own funds of credit institutions and to align the provisions in Directive 2006/48/EC to that agreement. The amendments to Annex XII to Directive 2006/48/EC result directly from the establishment of those criteria. ***The eligibility criteria should refer to the most subordinated instruments of a credit institution that does not have proprietors or shareholders under national law, such as certain members' certificates of cooperative banks, insofar as the respective capital has been paid up and ranks after all other claims.***

Amendment

(3) Therefore, it is important to lay down criteria for those capital instruments to be eligible for original own funds of credit institutions and to align the provisions in Directive 2006/48/EC to that agreement. The amendments to Annex XII to Directive 2006/48/EC result directly from the establishment of those criteria. ***Original own funds referred to in Article 57(a) of Directive 2006/48/EC include all instruments that are regarded under national law as equity capital, and rank after all other claims during liquidation. Original own funds referred to in Article 57(a) of Directive 2006/48/EC also include any other instrument under credit***

institutions' statutory terms taking into account the specific constitution of mutuals, cooperative societies and similar institutions and which are deemed broadly equivalent to ordinary shares in terms of their capital qualities. Instruments that do not rank after all other claims during liquidation are included in the category of hybrids referred to in Article 57(ca) of Directive 2006/48/EC.

Or. en

Justification

The financial crisis demonstrates the importance of a strong core capital base able to absorb losses. A clarification of wording is provided in order to duly reflect the three main eligibility criteria flexibility of payments, permanence and subordination, that define the loss absorption principle. In this sense, the criteria to fully absorb losses pari passu with ordinary shares on a going concern basis has no actual meaning. To charge losses to the nominal value of the securities has no effect on the profit and loss account (there is no cash) and therefore is nothing but an accounting device.

Amendment 31 **Donata Gottardi**

Proposal for a directive – amending act **Recital 3**

Text proposed by the Commission

(3) Therefore, it is important to lay down criteria for those capital instruments to be eligible for original own funds of credit institutions and to align the provisions in Directive 2006/48/EC to that agreement. The amendments to Annex XII to Directive 2006/48/EC result directly from the establishment of those criteria. ***The eligibility criteria should refer to the most subordinated instruments of a credit institution that does not have proprietors or shareholders under national law, such as certain members' certificates of cooperative banks, insofar as the***

Amendment

(3) Therefore, it is important to lay down criteria for those capital instruments to be eligible for original own funds of credit institutions and to align the provisions in Directive 2006/48/EC to that agreement. The amendments to Annex XII to Directive 2006/48/EC result directly from the establishment of those criteria. ***Original own funds referred to in Article 57(a) of Directive 2006/48/EC include all instruments that are regarded under national law as equity capital, and rank after all other claims during liquidation. Original own funds referred to in***

respective capital has been paid up and ranks after all other claims.

Article 57(a) of Directive 2006/48/EC also include any other instrument under credit institutions' statutory terms taking into account the specific constitution of mutuals, cooperative societies and similar institutions and which are deemed broadly equivalent to ordinary shares in terms of their capital qualities. Instruments that do not rank after all other claims during liquidation are included in the category of hybrids referred to in Article 57(ca) of Directive 2006/48/EC.

Or. en

Justification

The financial crisis demonstrates the importance of a strong core capital base able to absorb losses. A clarification of wording is necessary in order to duly reflect the three main eligibility criteria flexibility of payments, permanence and subordination, that define the loss absorption principle.

In this sense, the criteria to fully absorb losses pari passu with ordinary shares on a going concern basis has no actual meaning. To charge losses to the nominal value of the securities has no effect on the profit and loss account (there is no cash) and therefore is nothing but an accounting device.

Amendment 32 **Jean-Paul Gauzès**

Proposal for a directive – amending act **Recital 3**

Text proposed by the Commission

(3) Therefore, it is important to lay down criteria for those capital instruments to be eligible for original own funds of credit institutions and to align the provisions in Directive 2006/48/EC to that agreement. The amendments to Annex XII to Directive 2006/48/EC result directly from the establishment of those criteria. ***The eligibility criteria should refer to the most subordinated instruments of a credit institution that does not have proprietors***

Amendment

(3) Therefore, it is important to lay down criteria for those capital instruments to be eligible for original own funds of credit institutions and to align the provisions in Directive 2006/48/EC to that agreement. The amendments to Annex XII to Directive 2006/48/EC result directly from the establishment of those criteria.

or shareholders under national law, such as certain members' certificates of cooperative banks, insofar as the respective capital has been paid up and ranks after all other claims.

Or. en

Amendment 33
Pervenche Berès

Proposal for a directive – amending act
Recital 5

Text proposed by the Commission

(5) For the purpose of strengthening the crisis management framework of the Community, it is essential that competent authorities coordinate their actions with other competent authorities and where appropriate with central banks in an efficient way. In order to strengthen the efficiency of prudential supervision *of parent credit institutions authorised in the Community and to allow competent authorities to better carry out the supervision* of a banking group on a consolidated basis, supervisory activities should be coordinated in a more effective manner. Therefore, Colleges of Supervisors should be established. The establishment of colleges should not *affect* the rights and responsibilities of the competent authorities under Directive 2006/48/EC. Their establishment should be an instrument for stronger cooperation whereby competent authorities reach agreement on key supervisory tasks. The colleges should facilitate the handling of ongoing supervision and emergency situations. The consolidating supervisor may, in association with the other members of the college, decide to organise meetings or activities that are not of general interest and therefore streamline the attendance as

Amendment

(5) For the purpose of strengthening the crisis management framework of the Community, it is essential that competent authorities coordinate their actions with other competent authorities and where appropriate with central banks in an efficient way. In order to strengthen the efficiency of prudential supervision of a banking group on a consolidated basis, supervisory activities should be coordinated in a more effective manner. Therefore, Colleges of Supervisors should be established. The establishment of colleges should not *overhaul* the rights and responsibilities of the competent authorities under Directive 2006/48/EC. Their establishment should be an instrument for stronger cooperation whereby competent authorities reach agreement on key supervisory tasks. The colleges should facilitate the handling of ongoing supervision and emergency situations. The consolidating supervisor may, in association with the other members of the college, decide to organise meetings or activities that are not of general interest and therefore streamline the attendance as appropriate.

appropriate.

Or. en

Justification

The efficiency of prudential supervision of the whole banking group should be strengthened. We need to avoid competent national supervisors protecting solely their national interests within a college. Therefore, the aims of establishment to have more cooperation should not be prejudiced.

Amendment 34
Antolín Sánchez Presedo

Proposal for a directive – amending act
Recital 5

Text proposed by the Commission

(5) For the purpose of strengthening the crisis management framework of the Community, it is essential that competent authorities coordinate their actions with other competent authorities and where appropriate with central banks in an efficient way. In order to strengthen the efficiency of prudential supervision ***of parent credit institutions authorised in the Community and to allow competent authorities to better carry out the supervision*** of a banking group on a consolidated basis, supervisory activities should be coordinated in a more effective manner. Therefore, Colleges of Supervisors should be established. The establishment of colleges should not affect the rights and responsibilities of the competent authorities under Directive 2006/48/EC. Their establishment should be an instrument for stronger cooperation whereby competent authorities reach agreement on key supervisory tasks. The colleges should facilitate the handling of ongoing supervision and emergency situations. The consolidating supervisor

Amendment

(5) For the purpose of strengthening the crisis management framework of the Community, it is essential that competent authorities coordinate their actions with other competent authorities and where appropriate with central banks in an efficient way. In order to strengthen the efficiency of prudential supervision of a banking group on a consolidated basis ***when parent credit institutions are authorised in the Community***, supervisory activities should be coordinated in a more effective manner. Therefore, Colleges of Supervisors should be established. The establishment of colleges should not affect the rights and responsibilities of the competent authorities under Directive 2006/48/EC. Their establishment should be an instrument for stronger cooperation whereby competent authorities reach agreement on key supervisory tasks. The colleges should facilitate the handling of ongoing supervision and emergency situations. The consolidating supervisor may, in association with the other members of the college, decide to organise meetings

may, in association with the other members of the college, decide to organise meetings or activities that are not of general interest and therefore streamline the attendance as appropriate.

or activities that are not of general interest and therefore streamline the attendance as appropriate.

Or. en

Amendment 35
Ieke van den Burg, Pervenche Berès, Udo Bullmann

Proposal for a directive – amending act
Recital 7

Text proposed by the Commission

(7) Competent authorities should be able to participate in colleges established for the supervision of credit institutions the parent institution of which is situated in a third country. The Committee of European Banking Supervisors should provide, where necessary, for ***non-binding*** guidelines and recommendations in order to enhance the convergence of supervisory practices pursuant to Directive 2006/48/EC.

Amendment

(7) Competent authorities should be able to participate in colleges established for the supervision of credit institutions the parent institution of which is situated in a third country. The Committee of European Banking Supervisors should provide, where necessary, for guidelines and recommendations in order to enhance the convergence of supervisory practices pursuant to Directive 2006/48/EC. ***In order to avoid inconsistencies and regulatory arbitrage, which could result from differences in the approaches and rules applied by the various colleges and application of discretion by Member States, guidelines on the proceedings of rules governing colleges should be developed by the Committee of European Banking Supervisors.***

Or. en

Justification

It is important to avoid regulatory arbitrage that could result from differences in approaches applied by different colleges and Member States discretions and to ensure that various colleges operate in a consistent and coherent manner. These objectives should be achieved by entrusting CEBS with the elaboration of guidelines on colleges' rules/proceedings.

Amendment 36
Antolín Sánchez Presedo

Proposal for a directive – amending act
Recital 7

Text proposed by the Commission

(7) Competent authorities should be able to participate in colleges established for the supervision of credit institutions the parent institution of which is situated in a third country. The Committee of European Banking Supervisors should provide, where necessary, for **non-binding** guidelines and recommendations in order to enhance the convergence of supervisory practices pursuant to Directive 2006/48/EC.

Amendment

(7) Competent authorities should be able to participate in colleges established for the supervision of credit institutions the parent institution of which is situated in a third country. The Committee of European Banking Supervisors should provide, where necessary, for guidelines and recommendations in order to enhance the convergence of supervisory practices pursuant to Directive 2006/48/EC. ***In order to avoid inconsistencies and regulatory arbitrage, which could result from differences in the approaches and rules applied by various colleges, guidelines on the proceedings of rules governing colleges should be developed by the Committee of European Banking Supervisors.***

Or. en

Amendment 37
Pervenche Berès

Proposal for a directive – amending act
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Colleges of supervisors are a considerable temporary step forward in streamlining EU supervisory cooperation and convergence. In order to achieve the necessary level of EU supervisory convergence and cooperation, and to underpin the stability of the financial

system, further supervisory integration should be pursued and take into account the specific role of the ECB. Such integration should result in a European System of Banking Supervisors building on the model of the European System of Central Banks. To this purpose, by 31 January 2010, the Commission should review Article 129 of Directive 2006/48/EC and submit any appropriate proposals while taking into account the proposal of the High Level Group, notably on cross-border financial supervision. Should there, by 31 January 2010, be no substantial progress towards a European System of Banking Supervisors, supervisory arrangements with stronger role for a consolidating supervisor should be introduced.

Or. en

Justification

The proposed colleges of supervisors are a temporary step towards a new architecture of supervision. The financial crisis has highlighted weaknesses in EU supervision and also in the consolidating supervisor model. Therefore, further supervisory integration and a new proposal which takes into account lessons of the financial crisis, i.e. with regard to EU financial stability, and the outcome of the parallel discussions on supervisory arrangements, i.e. the upcoming report of the High level Group under the leadership of J. de Larosière is necessary.

Amendment 38

Astrid Lulling

Proposal for a directive – amending act

Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Colleges of supervisors are a considerable first step forward in streamlining EU supervisory cooperation and convergence. In order to achieve the necessary level of EU supervisory

convergence and cooperation, and to underpin the stability of the financial system, further supervisory integration should be pursued. Such integration should result, for the banking groups that are systematically important at the EU level, in a decentralised European System of Banking Supervisors building on the model of the European System of Central Banks. To this purpose, by 1 January 2012, the Commission should review Article 129 of Directive 2006/48/EC and submit any appropriate proposals while taking into account, among others, the proposal of the High Level Group on cross-border financial supervision.

Or. en

Justification

The proposed colleges of supervisors are a first step towards a new architecture of supervision.

The 'systematically important' banking groups should be exclusively supervised by a newly created EU level supervisory authority, the decentralised European System of Banking Supervision (the ESBS), built on the model of the European System of Central Banks.

A new proposal of the Commission is necessary by 1 January 2012 at the latest.

Amendment 39 **Antolín Sánchez Presedo**

Proposal for a directive – amending act **Recital 8 a (new)**

Text proposed by the Commission

Amendment

(8a) Colleges of supervisors are a considerable step forward in streamlining coordination and joint decision in the process of EU supervisory cooperation and convergence, and a temporary step towards a new European architecture of supervision. In order to achieve the

necessary level of EU supervisory coherence and to underpin the stability of the financial system, further supervisory integration should be pursued. Such integration should result in a decentralised European System of Banking Supervisors building on the model of the European System of Central Banks. To this purpose, by 31 January 2010, the Commission should review Article 129 of Directive 2006/48/EC and submit any appropriate proposals while taking into account the proposal of the High Level Group on cross-border financial supervision as well as the recent resolutions adopted by the European Parliament that refer to this issue.

Or. en

Amendment 40
Ján Hudacký

Proposal for a directive – amending act
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Colleges of supervisors are a step forward in streamlining EU supervisory cooperation and convergence. In order to achieve the necessary level of EU supervisory convergence and cooperation, and to underpin the stability of the financial system, further supervisory convergence should be pursued. To this purpose, by 31 January 2012, the Commission should review Article 129 of Directive 2006/48/EC and submit any appropriate proposals while taking into account the proposal of the High Level Group on cross-border financial supervision.

Or. en

Justification

Establishment of colleges of supervisors is a step towards a better supervisory cooperation and convergence in EU. The proposed model of colleges and its functioning should be assessed after an appropriate time period after the implementation date. Therefore we propose to change the revision date to 31 January 2012 when the real implementation will be in place and can be assessed. The most appropriate model for the future should be proposed after the Directive implementation assessment. Therefore there is no need to name a particular preferable solution.

Amendment 41

Ieke van den Burg, Udo Bullmann

**Proposal for a directive – amending act
Recital 8 a (new)**

Text proposed by the Commission

Amendment

(8a) Cooperation between supervisory authorities, dealing with groups and holdings and their subsidiaries and branches, in colleges is a phase in a development towards further regulatory convergence and supervisory integration. Trust between supervisors and respect for their respective responsibilities is essential. In the event of a conflict between members of a college linked to those different responsibilities, neutral and independent advice, mediation and conflict resolving mechanisms at Community level are essential. If voluntary and non-binding mediation mechanisms are complemented or replaced by binding mechanisms in the future, these should be applicable to the procedures in this Directive.

Or. en

Justification

Cooperation between supervisors in colleges requires maximal commitment to the mediation procedures that are now established on a voluntary basis in CEBS. The provisions of the Directive should also be fit for an enhancement of such procedures in a more binding form.

Amendment 42
Pervenche Berès

Proposal for a directive – amending act
Recital 8 b (new)

Text proposed by the Commission

Amendment

(8b) In its Communication of 29 October 2008 entitled 'From financial crisis to recovery: A European framework for action', the Commission set up a group of experts, chaired by Jacques de Larosière, to consider the organisation of EU financial institutions to ensure prudential soundness, the orderly functioning of markets and stronger EU cooperation on financial stability oversight, early warning mechanisms and crisis management, including the management of cross-border and cross-sectoral risks, and also to look at cooperation between the European Union and other major jurisdictions to help safeguard financial stability at the global level.

Or. en

Justification

It should be ensured that the conclusions of the de Larosière group affecting supervisory aspects of the CRD will be implemented through a review of this directive and that this will be done in coherence with other financial sector regulation.

Amendment 43
Sharon Bowles

Proposal for a directive – amending act
Recital 14

Text proposed by the Commission

Amendment

(14) Since a loss arising from an exposure

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to a credit institutions or an investment firm can be as severe as a loss from any other exposure, such exposures should be treated and reported as any other exposures.

to a credit institutions or an investment firm can be as severe as a loss from any other exposure, such exposures should be treated and reported as any other exposures. ***For smaller institutions, a quantitative limit rather than a percentage should be applied.***

Or. en

Justification

The proposed amendment to Recital 14 complements the amendments proposed for Article 106. It details the services that are covered by Article 106 (all of which are necessary to the adequate offering of payment or clearing and settlement services). It also details the types of exposures that should be covered, mainly the balances on accounts at other banks with which the institution has a correspondent relationship for the purpose of efficiently conducting payment, clearing and settlement operations, as well as the collateral received or delivered to cover client or own positions related to these activities.

Amendment 44 Othmar Karas

Proposal for a directive – amending act Recital 14

Text proposed by the Commission

(14) Since a loss arising from an exposure to a credit institutions or an investment firm can be as severe as a loss from any other exposure, such exposures should be treated and reported as any other exposures.

Amendment

(14) Since a loss arising from an exposure to a credit institutions or an investment firm can be as severe as a loss from any other exposure, such exposures should be treated and reported as any other exposures. ***In addition, very short-term exposures related to payment, clearing, settlement and custody services for clients are exempt to facilitate the smooth functioning of financial markets and of the related infrastructure. Those services cover, for example, the execution of cash clearing and settlement, corporate actions processing as well as securities lending and similar activities to facilitate settlement. The related exposures include, inter alia, balances on inter-bank***

accounts resulting directly or indirectly from client payments, including credited or debited fees and interest, and other payments for client services, as well as collateral given or received.

Or. en

Justification

The proposed amendment to Recital 14 complements the amendments proposed below for Article 106. It details the services that are covered by Article 106 (all of which are necessary to the adequate offering of payment or clearing and settlement services). It also details the types of exposures that should be covered, mainly the balances on accounts at other banks with which the institution has a correspondent relationship for the purpose of efficiently conducting payment, clearing and settlement operations.

Amendment 45 **Sharon Bowles**

Proposal for a directive – amending act **Recital 14**

Text proposed by the Commission

(14) Since a loss arising from an exposure to a credit institutions or an investment firm can be as severe as a loss from any other exposure, such exposures should be treated and reported as any other exposures.

Amendment

(14) Since a loss arising from an exposure to a credit institutions or an investment firm can be as severe as a loss from any other exposure, such exposures should be treated and reported as any other exposures. ***In addition, very short-term exposures related to payment, clearing, settlement and custody services for clients are exempt to facilitate the smooth functioning of financial markets and of the related infrastructure. Those services cover, for example, the execution of cash clearing and settlement, corporate actions processing as well as securities lending and similar activities to facilitate settlement. The related exposures include, inter alia, balances on inter-bank accounts resulting from client payments, including credited or debited fees and interest, and other payments for client***

services, as well as collateral given or received.

Or. en

Justification

The proposed amendment to Recital 14 complements the amendments proposed for Article 106. It details the services that are covered by Article 106 (all of which are necessary to the adequate offering of payment or clearing and settlement services). It also details the types of exposures that should be covered, mainly the balances on accounts at other banks with which the institution has a correspondent relationship for the purpose of efficiently conducting payment, clearing and settlement operations, as well as the collateral received or delivered to cover client or own positions related to these activities.

Amendment 46
Antolín Sánchez Presedo

Proposal for a directive – amending act
Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) In order to avoid regulatory overlaps or inconsistencies, the obligations on External Credit Assessment Institutions (ECAIs), such as those concerning integrity, disclosure, transparency and accountability, should be consistent and coherent.

Or. en

Amendment 47
Jean-Paul Gauzès

Proposal for a directive – amending act
Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) The provisions related to External Credit Assessment Institutions (ECAIs) under this Directive should be consistent

with Regulation (EC) No .../2009 on Credit Rating Agencies. In particular, the Committee of European Banking Supervisors should review its guidelines on the recognition of ECAIs to avoid duplication of work and reduce the burden of the recognition process where an ECAI is registered as a Credit Rating Agency (CRA) at Community level.

Or. en

Amendment 48
Jean-Paul Gauzès

Proposal for a directive – amending act
Recital 15

Text proposed by the Commission

(15) It is important to remove misalignment between the interest of firms that 're-package' loans into tradable securities and other financial instruments (originators) and firms that invest in these securities or instruments (investors). It is therefore important for originators to retain exposure to the risk of the loans in question. In particular where credit risk is transferred by securitisation, investors should make their decisions only after conducting thorough due diligence, for which they need adequate information about the securitisations.

Amendment

(15) It is important to remove misalignment between the interest of firms that 're-package' loans into tradable securities and other financial instruments (originators **or sponsors**) and firms that invest in these securities or instruments (investors). It is therefore important for **the originators or the sponsors** to retain exposure to the risk of the loans in question; **the exposure of the originators or the sponsors shall be to this end a net exposure after the effects of credit risk mitigation techniques so that an alignment of interest with investors is achieved by the retention. Such retention should be applicable in all situations where the economic substance of a securitisation according to the definition of the directive is applicable, whatever legal structures or instruments are used to obtain this economic substance. Accordingly, retention should be applicable to credit risk transfers such as sales of receivables, syndicated loans or credit default swaps to the extent that their economic substance does meet the**

definition of a securitisation under this Directive. In particular where credit risk is transferred by securitisation, investors should make their decisions only after conducting thorough due diligence, for which they need adequate information about the securitisations. ***Investors need to apply robust due diligence on securitisation positions regardless of whether these positions reside in the banking or in the trading book and in any event subject to the minimum list of analyses set out in this directive. The processes and procedures adopted to this end by credit institutions should be appropriately designed for the respective trading or banking book environment. The measures to address the potential misalignment of these structures need to be consistent and coherent in all relevant financial sector regulation; the Commission intends to bring forward the appropriate legislative proposals to ensure this will be the case, after duly considering the impact.***

Or. en

Amendment 49
Antolín Sánchez Presedo

Proposal for a directive – amending act
Recital 15

Text proposed by the Commission

(15) It is important to remove misalignment between the interest of firms that 're-package' loans into tradable securities and other financial instruments (originators) and firms that invest in these securities or instruments (investors). It is therefore important for originators to retain exposure to the risk of the loans in question. In particular where credit risk is transferred by securitisation, investors

Amendment

(15) It is important to remove misalignment between the interest of firms that 're-package' loans into tradable securities and other financial instruments (originators) and firms that invest in these securities or instruments (investors). ***It is also important to distinguish securitisations, where the interests of the originator or sponsor and the interests of investors are aligned, because, for***

should make their decisions only after conducting thorough due diligence, for which they need adequate information about the securitisations.

example, the originator or sponsor retains a relevant interest in the underlying assets, from those where they are not aligned. There should be differentiated regulation for these two types of securitisation, including as concerns penalties for non-compliance. In addition, such regulation needs to be proportionate. It is therefore important for originators to retain exposure to the risk of the loans in question. In particular where credit risk is transferred by securitisation, investors should make their decisions only after conducting thorough due diligence, for which they need adequate information about the securitisations. ***The measures to address the potential misalignment of these structures need to be consistent and coherent in all relevant financial sector regulation. The Commission should put forward appropriate legislative proposals to ensure such consistency and coherence.***

Or. en

Amendment 50
Pervenche Berès

Proposal for a directive – amending act
Recital 15

Text proposed by the Commission

(15) It is important to remove misalignment between the interest of firms that 're-package' loans into tradable securities and other financial instruments (originators) and firms that invest in these securities or instruments (investors). It is therefore important for originators to retain exposure to the risk of the loans in question. In particular where credit risk is transferred by securitisation, investors should make their decisions only after conducting thorough due diligence, for

Amendment

(15) It is important to remove misalignment between the interest of firms that 're-package' loans into tradable securities and other financial instruments (originators) and firms that invest in these securities or instruments (investors). It is therefore important for originators to retain exposure to the risk of the loans in question. In particular where credit risk is transferred by securitisation, investors should make their decisions only after conducting thorough due diligence, for

which they need adequate information about the securitisations.

which they need adequate information about the securitisations. ***The measures to address the potential misalignment of these structures need to be consistent and coherent in all relevant financial sector regulation. The Commission should put forward appropriate legislative proposals to ensure such consistency and coherence.***

Or. en

Justification

A consistent and coherent approach in addressing potential misalignment must be ensured. To this purpose, the Commission should put forward appropriate legislative proposals.

Amendment 51 Ieke van den Burg

Proposal for a directive – amending act Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) In the light of the present turmoil in the financial markets and the liquidity and credit problems in the real economy the rules to be applied on securitisation demand a balanced and flexible approach and should therefore be elaborated, assessed and where necessary promptly and properly adapted in a comitology procedure. In order to avoid inconsistencies and regulatory arbitrage, which could result from differences in the approaches and rules applied by various colleges and national discretions, guidelines should be developed by the Committee of European Banking Supervisors.

Or. en

Justification

In regulation and supervision of securitisation it is important to strike a balance between the necessity of preventing the negative and preserving the positive effects. This requires a dynamic and flexible approach, provided for by the comitology process and guidelines from CEBS that should be closely monitored and adapted where necessary.

Amendment 52

Eoin Ryan

Proposal for a directive – amending act

Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) It is important to distinguish between those securitisations where the interests of the originator or sponsor and the interests of investors are aligned and those where they are not aligned. Relevant regulation, including that relating to penalties for non-compliance, should differentiate between these two types of securitisation.

Or. en

Justification

It is important that the distinction between those securitisations where the originator or sponsor retains an interest in and originates in the underlying assets and those where the originator or sponsor has no such involvement is recognised, as in the former case the interests of the originator or sponsor and the investors are already aligned and as a result the rationale for much of the Commission's proposal ceases to exist.

Amendment 53

Sharon Bowles

Proposal for a directive – amending act

Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) Due diligence procedures have

greater confidence building and cross-checking potential when they are based on an open principle. Therefore whilst respecting data protection and privacy, due diligence performed by or on behalf of originators, sponsors and investors should be open rather than confidential.

Or. en

Justification

Market confidence in due diligence procedures must be restored. It is also important in the context of funds of funds which have otherwise to rely on more aged analysis.

Amendment 54
Pervenche Berès

Proposal for a directive – amending act
Recital 19

Text proposed by the Commission

Amendment

(19) In particular the Commission should be empowered to amend Annex III of Directive 2006/48/EC in order to take account of developments on financial markets or in accounting standards or requirements which take account of Community legislation, or with regard to convergence of supervisory practice and to alter the percentage specified in Article 111(1) of that Directive to take account of developments on financial markets. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2006/48/EC, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

deleted

Or. en

Justification

The amendments mentioned go beyond a technical adjustment and should therefore be done through the regular co-decision procedure.

Amendment 55 **Udo Bullmann**

Proposal for a directive – amending act **Recital 19 a (new)**

Text proposed by the Commission

Amendment

(19a) The crisis has underlined a need to examine how regulation and supervision of financial services should take into account the business cycle. In particular, the benefits associated with building up capital and provisioning anti-cyclically have become clear. The national supervisory authorities should take this into account; in addition, the Commission should consider whether banks need to build strong capital buffers and provisions through-the-cycle that can be used during a downturn. The crisis has also called into question the assumptions concerning correlations that underlie the methodology for calculating regulatory capital. A related concern is whether geographic, sector and similar concentration risks are adequately dealt with. Therefore, by 31 January 2010, the Commission should review this Directive as whole to address these issues (and, especially, the effects on the economic cycle, taking into account how valuation, leverage, bank capital and provisioning may exacerbate cyclical trends, and to promote through-the-cycle provisioning). By 31 January 2010, the Commission should present a report to the European Parliament and the Council and any appropriate proposals.

Or. de

Amendment 56
Antolín Sánchez Presedo

Proposal for a directive – amending act
Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) The crisis has underlined a need to examine how regulation and supervision of financial services should take into account the business and economic cycles. In particular, it is evident that banks need to build strong capital buffers and dynamic provisions through-the-cycle that can be used during a downturn. The crisis has also called into question the assumptions concerning correlations that underlie the methodology for calculating regulatory capital. The failure of risk evaluation on liquidity and complex financial products was clear. A related concern is whether geographic, sector and similar concentration risks are adequately dealt with. Furthermore, the divergences related to the definition of basic concepts as own capital or default are creating market distortions and an unlevel playing field for EU based entities. Therefore, by 31 January 2010, the Commission should review this Directive as whole to address all these issues (and, especially, the effects on the economic cycle, taking into account how valuation, leverage, bank capital and provisioning may exacerbate cyclical and unbalanced trends, and to promote stability with through-the- cycle provisioning). By 31 January 2010, the Commission should present a report to the Parliament and the Council and any appropriate proposals. In both cases having in mind that financial rules should, where possible, be defined at international level.

Or. en

Amendment 57
Pervenche Berès

Proposal for a directive – amending act
Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) The specific characteristics of microcredit and of microfinance institutions should be taken into account in the risk assessment. Furthermore, given the low development of microcredit, the development of adequate rating systems should be promoted. The development of microcredit through guarantee funds with lower own capital requirements should be authorised and promoted. Prudential regulation and supervision of microfinance institutions should be proportionate to their activities and size, with a differentiation to be made between these institutions and those also collecting savings. Finally, the supervision should be adapted to the development of standard rating systems adapted to the reality and risks of microcredit activities and the possibility to extend certain forms of saving to non-banking microfinance institutions should not be excluded.

Or. en

Justification

Provisions which promote the development of micro-credit in the European Union should be included in the CRD review, so as to counteract current unsuitable provisions regarding banks' willingness to engage directly or indirectly in microfinance.

Amendment 58
John Purvis

Proposal for a directive – amending act
Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) By 31 December 2009, the Commission should report to the European Parliament and the Council on the appropriateness and expected impact of requiring institutions to retain a material net economic interest in their securitisations in the light of international market and policy developments. If the Commission concludes that retaining a material net economic interest is appropriate, it should put forward proposals with that report.

Or. en

Justification

This amendment supports G20 leaders' conclusion that 'international standard setters should set out strengthened capital requirements for bank's structured credit and securitisation activities' and their call to national and regional regulators to 'formulate their regulations and other measures in a consistent manner'.

Amendment 59
Pervenche Berès

Proposal for a directive – amending act
Recital 19 b (new)

Text proposed by the Commission

Amendment

(19b) In order to ensure financial stability, the Commission should put forward appropriate legislative proposals to regulate credit-default swaps (CDS). CDS on European entities should be processed through a European clearing house (CCP) to mitigate the counterparty risks and more generally to reduce the

overall risks. Only CCP-cleared CDS should benefit from favourable capital requirement treatment.

Or. en

Justification

After the industry's failure to reach an agreement on the set-up of a European clearinghouse, the Commission should come up with appropriate proposals to regulate this sector for the sake of financial stability and transparency.

Amendment 60
Pervenche Berès

Proposal for a directive – amending act
Recital 19 c (new)

Text proposed by the Commission

Amendment

(19c) When providing investment advice or portfolio management, the credit institution should obtain the necessary information regarding the client's or potential client's knowledge and experience in the investment field relevant to the specific type of product or service, its financial situation, and its investment objectives so as to enable the credit institution to recommend to the client or potential client the investment services and financial instruments that are suitable for him.

Or. en

Justification

This amendment aims at ensuring sector consistency as regards investment advice obligations. Investment advice has proven to be of utmost importance when it comes to investor protection.

Amendment 61
Ieke van den Burg, Pervenche Berès

Proposal for a directive – amending act

Article 1 – point 3

Directive 2006/48/EC

Article 40 – paragraph 3

Text proposed by the Commission

3. The competent authorities in one Member State shall take into account **to** the potential impact of their decisions on the stability of the financial system in all other Member States concerned and, in particular, in emergency situations.

Amendment

3. The competent authorities in one Member State shall take into account the potential impact of their decisions on the stability of the financial system **and the real economy** in all other Member States concerned and, in particular, in emergency situations.

Or. en

Justification

The financial markets are linked to the real economy. As a consequence, the effects of certain decisions of competent authorities on the real economy should be taken into account.

Amendment 62
Margarita Starkevičiūtė

Proposal for a directive – amending act

Article 1 – point 3 a (new)

Directive 2006/48/EC

Article 41 – paragraph 1

Text proposed by the Commission

Amendment

3a. The first paragraph of Article 41 is amended as follows:

"Host Member States shall, pending further coordination, retain responsibility in cooperation with the competent authorities of the home Member State for the supervision of the liquidity of the branches of credit institutions, ensuring that the branches are able to manage liquidity independently on solo basis."

Justification

The current financial crisis illustrated the dangers of subsidiaries relying on liquidity from head offices, therefore, the branches of foreign banks in MS shall be self sufficient in terms of liquidity.

Amendment 63

Ieke van den Burg, Pervenche Berès

Proposal for a directive – amending act

Article 1 – point 4

Directive 2006/48/EC

Article 42a – paragraph 1 – subparagraph 2 – point b

Text proposed by the Commission

(b) the likely impact of a suspension or closure of the operations of the credit institution on the payment and clearing and settlement systems in the host Member State;

Amendment

(b) the likely impact of a suspension or closure of the operations of the credit institution on **liquidity and** the payment and clearing and settlement systems in the host Member State;

Justification

In recent months, we have seen the importance of the granting of credit to private institutions to keep the economy functioning. The suspension or closure of the credit institutions should not suspend the liquidity in the market.

Amendment 64

Sharon Bowles

Proposal for a directive – amending act

Article 1 – point 5

Directive 2006/48/EC

Article 42b – paragraph 1

Text proposed by the Commission

1. In the exercise of their duties, competent

Amendment

1. In the exercise of their duties, competent

authorities shall take into account the convergence in respect of supervisory tools and supervisory practices in the application of the laws, regulations and administrative requirements adopted pursuant to this Directive. For that purpose, Member States shall ensure that the competent authorities participate in the activities of the Committee of European Banking Supervisors and take into account its non-binding guidelines and recommendations.

authorities shall take into account the convergence in respect of supervisory tools and supervisory practices in the application of the laws, regulations and administrative requirements adopted pursuant to this Directive. For that purpose, Member States shall ensure that the competent authorities participate in the activities of the Committee of European Banking Supervisors and take into account its non-binding guidelines and recommendations, ***and that national mandates conferred on supervisors do not inhibit the performance by them of their duties as members of that Committee or under this Directive and that decisions made by competent authorities in the light of Article 40(3) or following recommendations from the Committee shall not give rise to liabilities under their national mandate.***

Or. en

Justification

The advice of CEBS must be fair and honest and must not be politically compromised. National supervisors must therefore be in a position to communicate and fully engage with one another.

Amendment 65 **Pervenche Berès**

Proposal for a directive – amending act
Article 1 – point 5
Directive 2006/48/EC
Article 42b – paragraph 1

Text proposed by the Commission

1. In the exercise of their duties, competent authorities shall take into account the convergence in respect of supervisory tools and supervisory practices in the application of the laws, regulations and administrative

Amendment

1. In the exercise of their duties, competent authorities shall ***contribute to and*** take into account the convergence in respect of supervisory tools and supervisory practices in the application of the laws, regulations

requirements adopted pursuant to this Directive. For that purpose, Member States shall ensure that the competent authorities participate in the activities of the Committee of European Banking Supervisors and take into account its **non-binding** guidelines and recommendations.

and administrative requirements adopted pursuant to this Directive. For that purpose, Member States shall ensure that the competent authorities participate in the activities of the Committee of European Banking Supervisors and take into account its guidelines and recommendations.

Or. en

Justification

The competent authorities have an active role in fostering supervisory convergence which should be stated as such. Moreover, the role of CEBS should be strengthened in future, meaning that its guidelines should become binding. Finally, CEBS should report on a yearly basis, not only every 3 years, as progress in the area of supervisory convergence in a rapidly changing market is of utmost importance.

Amendment 66 **Sharon Bowles**

Proposal for a directive – amending act
Article 1 – point 5
Directive 2006/48/EC
Article 42b – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States and competent authorities shall ensure that national regulators have sufficient personnel and resources to comply with their supervisory obligations under Article 122a and that employees involved in the oversight of credit institutions in accordance with Article 122a have appropriate knowledge and experience for the duties assigned.

Or. en

Justification

Supervisory capacity and expertise is crucial. Even with more cooperation and colleges, lack of capacity and expertise would remain a problem and it is one that the financial crisis has exposed.

Amendment 67
Pervenche Berès

Proposal for a directive – amending act

Article 1 – point 5

Directive 2006/48/EC

Article 42b – paragraph 2

Text proposed by the Commission

2. The Committee of European Banking Supervisors shall report to the Council, the European Parliament and the European Commission on the progress made towards supervisory convergence every **three years** starting from 31 December 2010.

Amendment

2. The Committee of European Banking Supervisors shall report to the Council, the European Parliament and the European Commission on the progress made towards supervisory convergence every **year** starting from 31 December 2010.

Or. en

Justification

The competent authorities have an active role in fostering supervisory convergence which should be stated as such. Moreover, the role of CEBS should be strengthened in future, meaning that its guidelines should become binding. Finally, CEBS should report on a yearly basis, not only every 3 years, as progress in the area of supervisory convergence in a rapidly changing market is of utmost importance.

Amendment 68
Pervenche Berès

Proposal for a directive – amending act

Article 1 – point 6 – point a

Directive 2006/48/EC

Article 49 – paragraph 1 – point a

Text proposed by the Commission

(a) central banks and other bodies with a similar function in their capacity as monetary authorities when this information is relevant for the exercise of their respective statutory tasks, including the conduct of monetary policy, the oversight of payments and securities settlement

Amendment

(a) **the ECB**, central banks and other bodies with a similar function in their capacity as monetary authorities when this information is relevant for the exercise of their respective statutory tasks, including the conduct of monetary policy, the oversight of **liquidity**, payments and

systems, and the safeguarding of financial stability ; and

securities settlement systems, **systemic risks** and the safeguarding of financial stability; and

Or. en

Justification

The ECB needs to have access to information at least as much as other central banks, especially when it comes to ensuring financial stability and monitoring systemic risks.

Amendment 69
Pervenche Berès

Proposal for a directive – amending act

Article 1 – point 6 – point b

Directive 2006/48/EC

Article 49 – paragraph 3 a

Text proposed by the Commission

In an emergency situation as referred to in Article 130(1), Member States shall allow competent authorities to communicate information to central banks in the Community when this information is relevant for the exercise of their respective statutory tasks, including the conduct of monetary policy, the oversight of payments and securities settlement systems, and the safeguarding of financial stability.

Amendment

In an emergency situation as referred to in Article 130(1), Member States shall allow competent authorities to communicate information to **the ECB and** central banks in the Community when this information is relevant for the exercise of their respective statutory tasks, including the conduct of monetary policy, the oversight of **liquidity**, payments and securities settlement systems, **systemic risks** and the safeguarding of financial stability.

Or. en

Justification

The ECB needs to have access to information at least as much as other central banks, especially when it comes to ensuring financial stability and monitoring systemic risks.

Amendment 70
Pervenche Berès

Proposal for a directive – amending act

Article 1 – point 7

Directive 2006/48/EC

Article 50 – paragraph 2 a

Text proposed by the Commission

In an emergency situation as referred to in Article 130(1), Member States shall allow competent authorities to **disclose** information to the departments referred to in the first paragraph in all Member States concerned.

Amendment

In an emergency situation as referred to in Article 130(1), Member States shall allow competent authorities to **communicate on request all relevant information and shall communicate on their own initiative all essential information for the purpose of their task** to the departments referred to in the first paragraph in all Member States concerned.

Or. en

Justification

Information requirements should be strengthened.

Amendment 71
Margarita Starkevičiūtė

Proposal for a directive – amending act

Article 1 – point 8 – point -a (new)

Directive 2006/48/EC

Article 57 – introductory part

Text proposed by the Commission

Amendment

(-a) The introductory part is amended as follows:

"57. Subject to the limits imposed in Article 66, the unconsolidated own funds of credit institutions calculated on cash-flow basis shall consist of the following items:"

Or. en

Justification

This provision shall ensure stability of banking institutions and help to manage cyclicalities of financial markets.

Amendment 72 **Pervenche Berès**

Proposal for a directive – amending act

Article 1 – point 8 – point a

Directive 2006/48/EC

Article 57 – point a

Text proposed by the Commission

(a) capital within the meaning of Article 22 of Directive 86/635/EEC, in so far as it has been paid up, plus the related share premium accounts, it fully absorbs losses *in* going concern *situations*, and in the event of bankruptcy or liquidation ranks *after all other claims*.

Amendment

(a) capital within the meaning of Article 22 of Directive 86/635/EEC, in so far as it has been paid up, plus the related share premium accounts, it fully absorbs losses *pari passu with ordinary shares on a* going concern *basis* and in the event of bankruptcy or liquidation ranks *pari passu with ordinary shares*.

Original own funds referred to in this subparagraph may include instruments providing preferential rights of dividend payment on a non-cumulative basis, provided that they are included in Article 22 of Directive 86/635/EEC, rank pari passu with ordinary shares during bankruptcy or liquidation, and fully absorb losses on a going-concern basis pari passu with ordinary shares.

Original own funds referred to in this subparagraph also include any other instrument under credit institutions' statutory terms taking into account the specific constitution of mutuals, cooperative societies and similar institutions and which are deemed equivalent to ordinary shares in terms of their capital qualities.

Instruments that do not rank pari passu with ordinary shares during liquidation or that do not absorb losses on a going

concern basis pari passu with ordinary shares are included in the category of hybrids referred to in Article 57(ca).

Or. en

Justification

This amendments goes a step forward in terms of harmonisation of own funds. The definition of core capital is of key importance to ensure a level playing field within the EU, especially at a time where EU banks are recapitalizing and financial analysts are paying close attention to the quality of core capital.

The amendment also provides a stronger legal basis to deal with the specificities of mutual / cooperative banks.

Amendment 73 **Jean-Paul Gauzès**

Proposal for a directive – amending act

Article 1 – point 8 – point a

Directive 2006/48/EC

Article 57 – point a

Text proposed by the Commission

(a) capital within the meaning of Article 22 of Directive 86/635/EEC, in so far as it has been paid up, plus the related share premium accounts, it fully absorbs losses ***in*** going concern ***situations***, and in the event of bankruptcy or liquidation ranks ***after all other claims***.

Amendment

(a) capital within the meaning of Article 22 of Directive 86/635/EEC, in so far as it has been paid up, plus the related share premium accounts, it fully absorbs losses ***pari passu with ordinary shares on a*** going concern ***basis*** and in the event of bankruptcy or liquidation ranks ***pari passu with ordinary shares***.

Original own funds referred to in this subparagraph may include instruments providing preferential rights of dividend payment on a non-cumulative basis, provided that they are included in Article 22 of Directive 86/635/EEC, rank pari passu with ordinary shares during bankruptcy or liquidation, and fully absorb losses on a going concern basis pari passu with ordinary shares.

Original own funds referred to in this subparagraph also include any other instrument under credit institutions' statutory terms taking into account the specific constitution of mutuals, cooperative societies and similar institutions and which are deemed equivalent to ordinary shares in terms of their capital qualities.

Instruments that do not rank pari passu with ordinary shares during liquidation or that do not absorb losses on a going concern basis pari passu with ordinary shares are included in the category of hybrids referred to in Article 57(ca).

Or. en

Amendment 74
Jean-Paul Gauzès

Proposal for a directive – amending act
Article 1 – point 8 – point b a (new)
Directive 2006/48/EC
Article 57 – paragraph 3

Text proposed by the Commission

Amendment

(ba) The third paragraph of Article 57 is amended as follows :

"For the purposes of point (b), the Member States shall permit inclusion of interim or year-end profits before a formal decision has been taken only if these profits have been verified by persons responsible for the auditing of the accounts and if it is proved to the satisfaction of the competent authorities that the amount thereof has been evaluated in accordance with the principles set out in Directive 86/635/EEC and is net of any foreseeable charge or dividend."

Or. en

Amendment 75
Paolo Bartolozzi

Proposal for a directive – amending act

Article 1 – point 9

Directive 2006/48/EC

Article 61 – paragraph 1

Text proposed by the Commission

The concept of own funds as defined in points (a) to (h) of Article 57 embodies a maximum number of items and amounts.
Member States may decide on the use of those items and on the deduction of items other than those listed in points (i) to (r) of Article 57.

Amendment

The concept of own funds as defined in points (a) to (h) of Article 57 embodies a maximum number of items and amounts.

Or. en

Justification

If too much flexibility is left to the different Member States concerning items included in the definition of own funds or concerning items others than those established in the CRD to be included as deduction, these national discretions could hinder the harmonization of supervisory practices and the levelling of the playing field among institutions. The national discretion could be used by some Member States to be more restrictive than others, with the negative effect on fair competition among institutions.

Amendment 76
Donata Gottardi

Proposal for a directive – amending act

Article 1 – point 9

Directive 2006/48/EC

Article 61 – paragraph 1

Text proposed by the Commission

The concept of own funds as defined in points (a) to (h) of Article 57 embodies a maximum number of items and amounts.
Member States may decide on the use of those items and on the deduction of items

Amendment

The concept of own funds as defined in points (a) to (h) of Article 57 embodies a maximum number of items and amounts.

*other than those listed in points (i) to (r)
of Article 57.*

Or. en

Justification

In our opinion if too much flexibility is left to the different Member States concerning items included in the definition of own funds or concerning items others than those established in the CRD to be included as deduction, these national discretions could hinder the harmonisation of supervisory practices and the levelling of the playing field among institutions.

Amendment 77

Margarita Starkevičiūtė

Proposal for a directive – amending act

Article 1 – point 9 – point a (new)

Directive 2006/48/EC

Article 61 – paragraph 2

Text proposed by the Commission

Amendment

(a) The second paragraph of Article 61 is replaced by the following:

"The items listed in points (a) to (e) of Article 57 shall be available to a credit institution for unrestricted and immediate use to cover risks or losses as soon as these occur. The part of own funds listed in point (a) of Article 57 shall make up a stabilisation reserve of the bank and shall not be used to cover risks or losses at certain threshold set by the competent authorities. The amount shall be net of any foreseeable tax charge at the moment of its calculation or be suitably adjusted in so far as such tax charges reduce the amount up to which these items may be applied to cover risks or losses."

Or. en

Justification

This provision shall ensure stability of banking institutions and help to manage cyclicity of financial markets.

Amendment 78 **Paolo Bartolozzi**

Proposal for a directive – amending act

Article 1 – point 11

Directive 2006/48/EC

Article 63a – paragraph 3

Text proposed by the Commission

3. The statutory or contractual provisions governing the instrument shall allow the credit institution to **cancel**, when necessary, the payment of interest or dividends for an unlimited period of time, on a non-cumulative basis.

However, the credit institution shall **cancel** such payments if it does not comply with the capital requirements set out in Article 75.

The competent authorities may require the cancellation of such payments based on the financial and solvency situation of the credit institution. Such **cancellation** shall not prejudice the right of the credit institution to substitute the payment of interest or dividend by a payment in the form of an instrument referred to in point (a) of Article 57, provided that any such mechanism allows the credit institution to preserve financial resources.

Such substitution may be subject to specific conditions established by the competent authorities.

Amendment

3. The statutory or contractual provisions governing the instrument shall allow the credit institution to **waive**, when necessary, the payment of interest or dividends for an unlimited period of time, on a non-cumulative basis.

However, the credit institution shall **waive** such payments if it does not comply with the capital requirements set out in Article 75.

The competent authorities may require the cancellation of such payments based on the **specific** financial and solvency situation of the credit institution. Such **waiver** shall not prejudice the right of the credit institution to substitute the payment **in cash** of interest or dividend by a payment in the form of an instrument referred to in point (a) of Article 57, provided that any such mechanism allows the credit institution to preserve financial resources.

Or. en

Justification

It's more appropriate the use of the word 'waive' instead of 'cancel' to mitigate further tax

complexities. The word 'specific' could ensure that this national discretion remains dependant on the financial and solvency situation of one or several credit institutions in particular and not on a national discretionary ceiling. Only payments in cash should be prevented whereas payments in other forms should be permitted. It should be supported a proposal to endorse CEBS with the task to elaborate guidelines fostering the convergence of supervisory practices in this area and to monitor their application.

Amendment 79
Donata Gottardi

Proposal for a directive – amending act

Article 1 – point 11

Directive 2006/48/EC

Article 63a – paragraph 3

Text proposed by the Commission

3. The statutory or contractual provisions governing the instrument shall allow the credit institution to **cancel**, when necessary, the payment of interest or dividends for an unlimited period of time, on a non-cumulative basis.

However, the credit institution shall **cancel** such payments if it does not comply with the capital requirements set out in Article 75.

The competent authorities may require the cancellation of such payments based on the financial and solvency situation of the credit institution. Such **cancellation** shall not prejudice the right of the credit institution to substitute the payment of interest or dividend by a payment in the form of an instrument referred to in point (a) of Article 57, provided that any such mechanism allows the credit institution to preserve financial resources.

Such substitution may be subject to specific conditions established by the competent authorities.

Amendment

3. The statutory or contractual provisions governing the instrument shall allow the credit institution to **waive**, when necessary, the payment of interest or dividends for an unlimited period of time, on a non-cumulative basis.

However, the credit institution shall **waive** such payments if it does not comply with the capital requirements set out in Article 75.

The competent authorities may require the cancellation of such payments based on the **specific** financial and solvency situation of the credit institution. Such **waiver** shall not prejudice the right of the credit institution to substitute the payment **in cash** of interest or dividend by a payment in the form of an instrument referred to in point (a) of Article 57, provided that any such mechanism allows the credit institution to preserve financial resources.

Or. en

Justification

The use of the word 'waive' instead of 'cancel' to mitigate further tax complexities. In some jurisdiction, this could even jeopardise the required tax treatment.

We propose to add the word 'specific' to ensure that this national discretion remains dependant on the financial and solvency situation of one or several credit institutions in particular and not on a national discretionary ceiling, which would be a major source of divergence.

We suggest to clarify that only payments in cash should be prevented, whereas payments in other forms (i.e. ACSM) should be permitted.

The last sentence is formulated as a national discretion, which would create an unlevel playing field. As competent authorities would always be in a position to impose specific conditions, therefore this seems unnecessary.

Amendment 80 **Paolo Bartolozzi**

Proposal for a directive – amending act

Article 1 – point 11

Directive 2006/48/EC

Article 63a – paragraph 4

Text proposed by the Commission

4. The statutory or contractual provisions governing the instrument shall provide for principal, unpaid interest or dividend to be such as to absorb losses and to not hinder the *recapitalisation* of the credit institution.

Amendment

4. The statutory or contractual provisions governing the instrument shall provide for principal, unpaid interest or dividend to be such as to absorb losses and to not hinder the *recapitalisation* of the credit institution ***through appropriate mechanisms, as elaborated by the Committee of European Banking Supervisors under paragraph 6.***

Or. en

Justification

Experience suggests that hybrids do not hinder recapitalisation, based on deep subordination and the non-cumulative payment. However, the inclusion of this wording would require legal opinions in most countries that would be extremely difficult to obtain. Thus, this requirement should be developed in the CEBS' updated guidelines. The proposed amendment is consistent with the Council's proposal.

Amendment 81
Donata Gottardi

Proposal for a directive – amending act

Article 1 – point 11

Directive 2006/48/EC

Article 63a – paragraph 4

Text proposed by the Commission

4. The statutory or contractual provisions governing the instrument shall provide for principal, unpaid interest or dividend to be such as to absorb losses and to not hinder the *recapitalisation* of the credit institution.

Amendment

4. The statutory or contractual provisions governing the instrument shall provide for principal, unpaid interest or dividend to be such as to absorb losses and to not hinder the *recapitalisation* of the credit institution ***through appropriate mechanisms, as elaborated by the Committee of European Banking Supervisors under paragraph 6.***

Or. en

Justification

Experience suggests that hybrids do not hinder recapitalisation, based on deep subordination and the non-cumulative payment. Thus, this requirement should be developed in the CEBS' updated guidelines.

Amendment 82
Jean-Paul Gauzès

Proposal for a directive – amending act

Article 1 – point 11

Directive 2006/48/EC

Article 63a – paragraph 6

Text proposed by the Commission

6. The Committee of European Banking Supervisors shall elaborate guidelines for the convergence of supervisory practices with regard to the instruments referred to in paragraph 1 and shall monitor their application. By January 2012, the Commission shall review the application of

Amendment

6. The Committee of European Banking Supervisors shall elaborate guidelines for the convergence of supervisory practices with regard to the instruments referred to in paragraph 1 ***and in Article 57(a)*** and shall monitor their application. By January 2012, the Commission shall review the

this Article and shall report to the Parliament and the Council.

application of this Article and shall report to the *European Parliament and the Council together with any appropriate proposals to ensure the quality of own funds.*

Or. en

Amendment 83
Zsolt László Becsey

Proposal for a directive – amending act
Article 1 – point 11
Directive 2006/48/EC
Article 63a – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. The extent to which the dated instruments may rank as own funds shall be gradually reduced during at least the last five years before the redemption date.

Or. en

Justification

For hybrids to be recognised as 'original own funds', they need to absorb losses, permit the cancellation of payment in times of stress, be deeply subordinated during liquidation and must be permanently available so that there is no doubt that it can support depositors and other creditors in times of stress.

Our proposal could strengthen the overall consistency of the text.

Amendment 84
Ieke van den Burg, Pervenche Berès

Proposal for a directive – amending act
Article 1 – point 13 a (new)
Directive 2006/48/EC
Article 74 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

13a. In Article 74(2), the following subparagraph is added:

"For the communication of these calculations by credit institutions, the competent authorities shall, by 30 June 2011, apply uniform formats, frequencies and dates of reporting. To facilitate this, the Committee of European Banking Supervisors shall, by 31 December 2009, elaborate guidelines to introduce, within the Community, a uniform reporting format."

Or. en

Justification

To progress in supervisory convergence, substantial progress in the area of reporting is necessary. Therefore, a single European reporting should be established. The CEBS should facilitate introduction of single reporting by elaborating guidelines to introduce uniform reporting formats by 2011.

Amendment 85
Robert Goebbels

Proposal for a directive – amending act

Article 1 – point 13 a (new)

Directive 2006/48/EC

Article 74 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

13a. In Article 74(2), the following subparagraph is added:

"For the communication of these calculations by credit institutions, the competent authorities shall, by 31 December 2012, apply uniform formats, frequencies and dates of reporting. To facilitate this, the Committee of European Banking Supervisors shall, by 31 December 2011,

elaborate guidelines to introduce, within the Community, a uniform reporting format. The reporting formats shall be proportionate to the nature, scale and complexity of the credit institutions' activities."

Or. en

Justification

A single European reporting format shall be put in place by end of 2012 in order to foster comparability of solvency ratios across banking groups in the EU, to ensure supervisory convergence and to ensure a level playing field among banking groups.

Amendment 86

Margarita Starkevičiūtė

Proposal for a directive – amending act

Article 1 – point 13 a (new)

Directive 2006/48/EC

Article 75 – point d a (new)

Text proposed by the Commission

Amendment

13a. In Article 75, the following point is added:

"(da) for a leverage ratio of at least three percent in respect of risk-weighted capital."

Or. en

Justification

This provision shall ensure stability of banking institutions and help to manage cyclicity of financial markets.

Amendment 87
Jean-Paul Gauzès

Proposal for a directive – amending act
Article 1 – point 13 a (new)
Directive 2006/48/EC
Article 81 - paragraph 2

Text proposed by the Commission

Amendment

13a. Article 81(2) is replaced by the following:

"2. Competent authorities shall recognise an ECAI as eligible for the purpose of Article 80 only if they are satisfied that its assessment methodology complies with the requirements of objectivity, independence, ongoing review and transparency, and that the resulting credit assessments meet the requirements of credibility and transparency. For those purposes, the competent authorities shall take into account the technical criteria set out in Annex VI, part 2. Where an ECAI is registered as a CRA in accordance with Regulation (EC) No .../2009 of ... *of the European Parliament and of the Council on Credit Rating Agencies, the competent authorities shall consider that the requirements of objectivity, independence, ongoing review and transparency with respect to its assessment methodology are satisfied."**

**** OJ please insert number and date**

*** OJ L ...**

Or. en

Amendment 88
Jean-Paul Gauzès

Proposal for a directive – amending act
Article 1 – point 14 – point a
Directive 2006/48/EC
Article 87 – paragraph 11 – subparagraph 1

Text proposed by the Commission

"11. Where exposures in the form of a collective investment undertaking (CIU) meet the criteria set out in Annex VI, Part 1, points 77 and 78 and the credit institution is aware of all or parts of the underlying exposures of the CIU, the credit institution shall look through to those underlying exposures in order to calculate risk-weighted exposure amounts and expected loss amounts in accordance with the methods set out in this Subsection. Paragraph 12 shall apply to the part of the underlying exposures of the CIU the credit institution is not aware of **and** could not reasonably be aware of.

Amendment

"11. Where exposures in the form of a collective investment undertaking (CIU) meet the criteria set out in Annex VI, Part 1, points 77 and 78 and the credit institution is aware of all or parts of the underlying exposures of the CIU, the credit institution shall look through to those underlying exposures in order to calculate risk-weighted exposure amounts and expected loss amounts in accordance with the methods set out in this Subsection. Paragraph 12 shall apply to the part of the underlying exposures of the CIU the credit institution is not aware of **or** could not reasonably be aware of. ***In particular, paragraph 12 shall apply where it would be unduly burdensome for the credit institution to look through the underlying exposures in order to calculate risk-weighted amounts and expected loss amounts in accordance with methods set out in this section.***

Or. en

Amendment 89
Robert Goebbels

Proposal for a directive – amending act
Article 1 – point 14 – point a
Directive 2006/48/EC
Article 87 – paragraph 11 – subparagraph 1

Text proposed by the Commission

"11. Where exposures in the form of a collective investment undertaking (CIU) meet the criteria set out in Annex VI, Part 1, points 77 and 78 and the credit institution is aware of all or parts of the underlying exposures of the CIU, the credit institution shall look through to those underlying exposures in order to calculate

Amendment

"11. Where exposures in the form of a collective investment undertaking (CIU) meet the criteria set out in Annex VI, Part 1, points 77 and 78 and the credit institution is aware of all or parts of the underlying exposures of the CIU, the credit institution shall look through to those underlying exposures in order to calculate

risk-weighted exposure amounts and expected loss amounts in accordance with the methods set out in this Subsection. Paragraph 12 shall apply to the part of the underlying exposures of the CIU the credit institution is not aware of **and** could not reasonably be aware of.

risk-weighted exposure amounts and expected loss amounts in accordance with the methods set out in this Subsection. Paragraph 12 shall apply to the part of the underlying exposures of the CIU the credit institution is not aware of **or** could not reasonably be aware of. ***In particular, paragraph 12 shall apply where it would be unduly burdensome for the credit institution to look through to the underlying exposures in order to calculate risk-weighted amounts and expected loss amounts in accordance with the methods set out in this section.***

Or. en

Justification

The proposed amendment clarifies the language and the scope of application of paragraph 11 with a view towards reinforcing legal certainty. In order to provide for a coherent application of these rules and to ensure proportionality of the burdens and benefits resulting from these provisions, the concept of grand-fathering enshrined in Article 154, paragraph 6 of the CRD is explicitly extended to the situations where a look through is made.

Amendment 90 **Robert Goebbels**

Proposal for a directive – amending act

Article 1 – point 14 – point a

Directive 2006/48/EC

Article 87 – paragraph 11 – subparagraph 2 – point b – point i

Text proposed by the Commission

(i) for exposures subject to a specific risk weight for unrated exposures or subject to the **highest** credit quality step for a given exposure class, the risk weight shall be multiplied by a factor of 2 but cannot be higher than 1 250 %;

Amendment

(i) for exposures subject to a specific risk weight for unrated exposures or subject to the credit quality step **yielding the highest risk weight** for a given exposure class, the risk weight shall be multiplied by a factor of *two* but cannot be higher than 1 250 %;

Or. en

Justification

The proposed amendment clarifies the language and the scope of application of paragraph 11 with a view towards reinforcing legal certainty. In order to provide for a coherent application of these rules and to ensure proportionality of the burdens and benefits resulting from these provisions, the concept of grand-fathering enshrined in Article 154, paragraph 6 of the CRD is explicitly extended to the situations where a look through is made.

Amendment 91 **Robert Goebbels**

Proposal for a directive – amending act

Article 1 – point 14 – point a

Directive 2006/48/EC

Article 87 – paragraph 11 – subparagraph 3

Text proposed by the Commission

If, for the purposes of point (a), the credit institution is unable to differentiate between private equity, exchange-traded and other equity exposures, it shall treat the exposures concerned as other equity exposures. Where these exposures, taken together with the credit institution's direct exposures in this exposure class, are not material within the meaning of Article 89(2), *Paragraph 1* of that Article may be applied subject to the approval of the competent authorities.

Amendment

If, for the purposes of point (a), the credit institution is unable to differentiate between private equity, exchange-traded and other equity exposures, it shall treat the exposures concerned as other equity exposures. ***Without prejudice to Article 154(6)***, where these exposures, taken together with the credit institution's direct exposures in this exposure class, are not material within the meaning of Article 89(2), *paragraph 1* of that Article may be applied subject to the approval of the competent authorities.

Or. en

Justification

The proposed amendment clarifies the language and the scope of application of paragraph 11 with a view towards reinforcing legal certainty. In order to provide for a coherent application of these rules and to ensure proportionality of the burdens and benefits resulting from these provisions, the concept of grand-fathering enshrined in Article 154, paragraph 6 of the CRD is explicitly extended to the situations where a look through is made.

Amendment 92
Jean-Paul Gauzès

Proposal for a directive – amending act
Article 1 – point 15 a (new)
Directive 2006/48/EC
Article 97 – paragraph 2

Text proposed by the Commission

Amendment

15a. Article 97(2) is replaced by the following:

"2. The competent authorities shall recognise an ECAI as eligible for the purpose of paragraph 1 only if they are satisfied as to its compliance with the requirements laid down in Article 81, taking into account the technical criteria set out in Annex VI, part 2, and that it has a demonstrated ability in the area of securitisation, which may be evidenced by a strong market acceptance. Where an ECAI is registered as a CRA in accordance with the Regulation (EC) No .../2009 of ...* of the European Parliament and of the Council on Credit Rating Agencies**, competent authorities shall consider the requirements of objectivity, independence, ongoing review and transparency with respect to its assessment methodology to be satisfied."

**** OJ L ...***

***** OJ please insert number and date.***

Or. en

Amendment 93
Sharon Bowles

Proposal for a directive – amending act
Article 1 – point 16 – point a
Directive 2006/48/EC
Article 106 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) in the case of foreign exchange transactions, exposures incurred in the ordinary course of settlement during the **48 hours** following payment;

(a) in the case of foreign exchange transactions, exposures incurred in the ordinary course of settlement during the **two working days** following payment;

Or. en

Justification

Current settlement practice is that payment of foreign exchange transactions takes place on the second working day, which can be later than after 48 hours, e.g. if trade execution was on a Friday.

Amendment 94
Jean-Paul Gauzès

Proposal for a directive – amending act

Article 1 – point 16 – point a

Directive 2006/48/EC

Article 106 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) in the case of foreign exchange transactions, exposures incurred in the ordinary course of settlement during the **48 hours** following payment;

(a) in the case of foreign exchange transactions, exposures incurred in the ordinary course of settlement during the **two working days** following payment;

Or. en

Amendment 95
Othmar Karas

Proposal for a directive – amending act

Article 1 – point 16 – point a

Directive 2006/48/EC

Article 106 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) in the case of foreign exchange

(a) in the case of foreign exchange

transactions, exposures incurred in the ordinary course of settlement during the **48 hours** following payment;

transactions, exposures incurred in the ordinary course of settlement during the **two working days** following payment;

Or. en

Justification

The current wording requires clarification since referring to 48 hours could be problematic during weekends, public holidays, use of targeted holiday etc. Using the commonly applied definition of two working days will avoid the need for interpretation.

Amendment 96 **Jean-Paul Gauzès**

Proposal for a directive – amending act

Article 1 – point 16 – point a

Directive 2006/48/EC

Article 106 – paragraph 2 – point c

Text proposed by the Commission

(c) in the case of the provision of money transmission *or securities* clearing and settlement *services to clients*, delayed receipts in funding *and other exposures arising from client activity*, which do not last longer than the following *business* day.

Amendment

(c) in the case of:

(i) the provision of money transmission including the execution of payment instructions, clearing and settlement in any currency and correspondent banking; or

(ii) financial instruments clearing, settlement and custody services, exposures including balances and overdrafts on current accounts such as delayed receipts in funding, which do not last longer than the following working day.

Or. en

Amendment 97
Sharon Bowles

Proposal for a directive – amending act

Article 1 – point 16 – point a

Directive 2006/48/EC

Article 106 – paragraph 2 – point c

Text proposed by the Commission

(c) in the case of the provision of money transmission *or securities* clearing and settlement *services to clients*, delayed receipts in funding *and other exposures arising from client activity*, which do not last longer than the following *business* day.

Amendment

(c) in the case of the provision of money transmission *including the execution of payment instructions*, clearing and settlement, *in any currency and correspondent banking or financial instruments clearing, settlement and custody services, exposures including balances and overdrafts on current accounts such as* delayed receipts in funding, which do not last longer than the following *working* day.

Or. en

Justification

The current wording exempts short term exposures arising from client activity only. It does not exempt inter-bank exposures resulting from client deposits. Furthermore, such balances booked on current accounts with funds recallable at any time are usually a mixture of own and client funds. Without clearly exempting both kinds of exposures, the EU payment transaction market (covering different purposes like payments for goods and services, plain money transfer or financial instrument related payments) would be disrupted.

Amendment 98
Othmar Karas

Proposal for a directive – amending act

Article 1 – point 16 - point a

Directive 2006/48/EC

Article 106 – paragraph 2 – point c

Text proposed by the Commission

(c) in the case of the provision of money transmission or *securities* clearing and settlement services to clients, delayed

Amendment

(c) in the case of the provision of money transmission *including the execution of payment services, clearing and settlement*

receipts in funding and other exposures arising **from client activity**, which do not last longer than the following business day.

in any currency and correspondent banking or **financial instruments** clearing, and settlement **and custodian** services to clients, delayed receipts in funding and other exposures arising **with respect to the those services or activities** which do not last longer than the following business day.

Or. en

Justification

The introduction of the large exposure limit on interbank exposures also makes it necessary to insert the wording 'execution of payment services' in the proposed amendment to Article 106(2)(c) in order to prevent possible friction in the delivery of payment services.

The listing of 'clearing and settlement in different currencies and correspondent banking or financial instruments clearing and settlement and custody services' serves to clarify the exact scope of the Commission's proposal by spelling out the relevant business activities in this field.

Amendment 99 **Sharon Bowles**

Proposal for a directive – amending act
Article 1 – point 16 - point a
Directive 2006/48/EC
Article 106 – paragraph 2 – point c

Text proposed by the Commission

(c) in the case of the provision of money transmission **or securities** clearing **and** settlement services to clients, delayed receipts in funding and **other** exposures arising from client activity, which do not last longer than the following **business** day.

Amendment

(c) in the case of the provision of money transmission, **financial instruments** clearing, settlement **and custody** services to clients, delayed receipts in funding and **similar** exposures arising from client activity, which do not last longer than the following **working** day.

Or. en

Justification

Exposures related to money transmission or clearing, settlement and custody activities need to be treated differently from the other exposures that banks incur, as these exposures fully

depend on client activity and are therefore generally not controllable. Others are the direct or indirect result of receipts of funds from clients. This can often not be adequately foreseen, occurs at the end of the day, when local markets are closing, with few counterparties still needing funds and so reduces the possibilities to diversify these exposures.

Amendment 100
Robert Goebbels

Proposal for a directive – amending act

Article 1 – point 16 – point a

Directive 2006/48/EC

Article 106 – paragraph 2 – point c

Text proposed by the Commission

(c) in the case of the provision of money transmission or **securities** clearing **and** settlement services to clients, delayed receipts in funding and other exposures arising from client activity, which do not last longer than the following business day.

Amendment

(c) in the case of the provision of money transmission or **financial instruments** clearing, settlement **and custody** services to clients, delayed receipts in funding and other exposures arising from client activity, which do not last longer than the following business day.

Or. en

Justification

The scope of paragraph 2, letter c is clarified through the use of the term 'financial instrument'. Furthermore, custody services have to be included in letter c in order to ensure the smooth functioning of the clearing and settlement business. Indeed the more stringent rules on interbank exposures will have a heavy impact on this business.

Amendment 101
Robert Goebbels

Proposal for a directive – amending act

Article 1 – point 16 – point b

Directive 2006/48/EC

Article 106 – paragraph 3

Text proposed by the Commission

3. In order to determine the existence of a group of connected clients, in respect of

Amendment

3. In order to determine the existence of a group of connected clients, in respect of

exposures referred to in points (m), (o) and (p) of Article 79(1), where there is an exposure to underlying assets, a credit institution shall assess the scheme **and** its underlying exposures. For that purpose, a credit institution shall evaluate the economic substance and the risks inherent in the structure of the transaction.

exposures referred to in points (m), (o) and (p) of Article 79(1), where there is an exposure to underlying assets, a credit institution shall assess the scheme **or** its underlying exposures, **or both**. For that purpose, a credit institution shall evaluate the economic substance and the risks inherent in the structure of the transaction.

Or. en

Justification

The changes to paragraph 3 are necessary in order to ensure the principle of proportionality. The Commission proposal requires in all cases a look through to the underlying assets and an assessment of the scheme, which would be unduly burdensome with regard to its potential benefits. The proposed amendment is in line with the proposals CEBS made in its advice to the European Commission.

Amendment 102

Paolo Bartolozzi

Proposal for a directive – amending act

Article 1 – point 18

Directive 2006/48/EC

Article 110 – paragraph 2

Text proposed by the Commission

2. Member States shall provide that reporting is to be carried out **at least** twice a year.

Amendment

2. Member States shall provide that reporting is to be carried out twice a year.

Or. en

Justification

The wording 'at least' is a national discretion. Since harmonisation of reporting frequencies should be reached by 2012, reporting requirements for LE should already be harmonised throughout the EU.

Amendment 103
Olle Schmidt

Proposal for a directive – amending act

Article 1 – point 19 – point a

Directive 2006/48/EC

Article 111 – paragraph 1 – subparagraphs 1 and 2

Text proposed by the Commission

1. A credit institution may not incur an exposure, after taking into account the effect of the credit risk mitigation in accordance with Articles 112 to 117, to a client or group of connected clients the value of which exceeds **25%** of its own funds.

Where that client is an institution or where a group of connected clients includes one or more institutions, this value may not exceed **25%** of the credit institution's own funds or the amount of *EUR 150 million*, whichever is higher, provided that the sum of exposure values, after taking into account the effect of the credit risk mitigation in accordance with Articles 112 to 117, to all connected clients that are not institutions does not exceed **25%** of the credit institution's own funds.

Amendment

1. A credit institution may not incur an exposure, after taking into account the effect of the credit risk mitigation in accordance with Articles 112 to 117, to a client or group of connected clients the value of which exceeds **20 %** of its own funds.

Where that client is an institution or where a group of connected clients includes one or more institutions, this value may not exceed **20 %** of the credit institution's own funds or the amount of *EUR 150 000 000*, whichever is higher, provided that the sum of exposure values, after taking into account the effect of the credit risk mitigation in accordance with Articles 112 to 117, to all connected clients that are not institutions does not exceed **20 %** of the credit institution's own funds.

Or. en

Justification

In the current situation, banks exposed to distress do not have the ability to survive even for very short periods of time. This amendment will make sure that financial institutions diversify their capital in a way that avoids direct contagion between banks by mutual large exposures. This will also prevent indirect contagion by reducing the expectations by the market that financial problems in one bank spread to other banks in the same system.

Amendment 104
Sharon Bowles

Proposal for a directive – amending act

Article 1 – point 19 – point a

Directive 2006/48/EC

Article 111 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Member States may provide that as a transitional measure until 31 December 2012 that where an exposure to an institution has a maturity of three to six months, the value of that exposure may not exceed 50 % of the credit institution's own funds; where an exposure to an institution has a maturity of up to three months, the value of that exposure may not exceed 75 % of the credit institution's own funds.

Or. en

Justification

A rapid change to the new exposures regime may have an adverse liquidity effect, therefore a transitional provision is proposed. Given different national circumstances this may be better also a Member State option.

Amendment 105
Wolf Klinz

Proposal for a directive – amending act

Article 1 – point 19 – point a

Directive 2006/48/EC

Article 111 – paragraph 1 – subparagraph 3

Text proposed by the Commission

Amendment

Member States may set a lower limit than EUR 150 million and shall inform the Commission.

Where an exposure to an institution has a maturity of three to six months, the value of that exposure may not exceed 50 % of the credit institution's own funds; where an exposure to an institution has a maturity of less than three months, the

***value of that exposure may not exceed
75 % of the credit institution's own funds.***

Or. en

Justification

The flow of liquidity to other credit institutions needs to be ensured in order to preserve the well-functioning of the market. The large exposures proposal should hence be made more flexible, allowing for a three-step approach, to allow European Banks to provide each other the necessary liquidity.

**Amendment 106
John Purvis**

Proposal for a directive – amending act

Article 1 – point 19 – point a

Directive 2006/48/EC

Article 111 – paragraph 1 – subparagraph 3

Text proposed by the Commission

***Member States may set a lower limit than
EUR 150 million and shall inform the
Commission.***

Amendment

***Where an exposure to an institution has a
maturity of six months or less, the value
of that exposure shall not exceed 40 % of
the credit institution's own funds or the
amount of EUR 150 000 000, whichever
the higher.***

Or. en

Justification

*Limiting the interbank exposures is important, but **a limit of 25%** of own funds on unsecured interbank exposures **for all maturities** would disrupt the well functioning of the money market. A new regime for large exposures should recognise that most of banks' refinancing operations have a one-day to six-month maturity. A 25% limit on all interbank exposures would lead to competitive disadvantages at international level for European Banks as no equivalent rules exist in the Basel II framework, nor in other jurisdictions such as the US.*

Amendment 107

Eoin Ryan

Proposal for a directive – amending act

Article 1 – point 19 – point a

Directive 2006/48/EC

Article 111 – paragraph 1 – subparagraph 3

Text proposed by the Commission

Member States may set a lower limit than EUR 150 million and shall inform the Commission.

Amendment

Where an exposure to an institution has a maturity of six months or less, the value of that exposure shall not exceed 40 % of the credit institution's own funds or EUR 150 000 000, whichever the higher.

Or. en

Justification

The new regime for large exposures should recognise the specificity of the money market.

Amendment 108

Jean-Paul Gauzès

Proposal for a directive – amending act

Article 1 – point 19 – point a

Directive 2006/48/EC

Article 111 – paragraph 1 – subparagraph 3

Text proposed by the Commission

Member States may set a lower limit than EUR 150 million and shall inform the Commission.

Amendment

Where an exposure to an institution has a maturity of six months or less, the value of that exposure may not exceed 40 % of the credit institution's own funds.

Or. en

Amendment 109

Daniel Dăianu, Mariela Velichkova Baeva, Zsolt László Becsey

Proposal for a directive – amending act

Article 1 – point 21 – point b – point ii

Directive 2006/48/EC

Article 113 – paragraph 3 – subparagraph 1– point f

Text proposed by the Commission

(f) exposures to counterparties referred to in *paragraph 7 or paragraph 8 of Article 80* if they would be assigned a 0 % risk weight under Articles 78 to 83; exposures that do not meet these criteria, whether exempted from Article 111(1) or not, shall be treated as exposures to a third party.

Amendment

(f) exposures to counterparties referred to in *Article 80(7) and (8)*, but **excluding Article 80(7)(d)**, if they would be assigned a 0 % risk weight under Articles 78 to 83; exposures that do not meet these criteria, whether exempted from Article 111(1) or not, shall be treated as exposures to a third party.

Or. en

Justification

The elimination of the cross-border intra-group large exposure limit

- *removes market fragmentation through a consistent application of the respective requirements in all Member States,*
- *increases the efficiency of the allocation of fund surpluses throughout the group,*
- *and, therefore, has a stabilising effect on the group and on the financial system in turn.*

In contrast, putting limits on intra-group exposures restricts liquidity flow to where it is most needed. A consequence of this is that a group member in need of liquidity might be forced into the interbank market, despite the liquidity being available at the group level.

Amendment 110

Harald Ettl

Proposal for a directive – amending act

Article 1 – point 21 – point b – point ii

Directive 2006/48/EC

Article 113 – paragraph 3 – subparagraph 1– point f

Text proposed by the Commission

(f) exposures to counterparties referred to in *paragraph 7 or paragraph 8 of Article 80* if they would be assigned a 0% risk weight under Articles 78 to 83; exposures that do not meet these criteria,

Amendment

(f) exposures to counterparties referred to in *Article 80(7) and (8)*, but **excluding Article 80(7)(d)**, if they would be assigned a 0% risk weight under Articles 78 to 83; exposures that do not meet these criteria,

whether exempted from Article 111(1) or not, shall be treated as exposures to a third party.

whether exempted from Article 111(1) or not, shall be treated as exposures to a third party.

Or. en

Justification

The elimination of the intra-group large exposure limit eliminates market fragmentation and thus increases the efficiency of the allocation of fund surpluses throughout the group. Allocating funds within banking group is a key topic in a cross-border banking group. In contrast, putting limits on intra-group exposures could restrict liquidity flow to where it is most needed. A consequence of this would be that a group member in need of liquidity might be forced into the interbank market, despite the liquidity being available at the group level. Raising money in the money market is by nature more unstable and expensive than intra-group funding.

Amendment 111 **Jean-Paul Gauzès**

Proposal for a directive – amending act

Article 1 – point 21 – point b – point ii

Directive 2006/48/EC

Article 113 – paragraph 3 – subparagraph 1– point f

Text proposed by the Commission

(f) exposures to counterparties referred to in *paragraph 7 or paragraph 8 of Article 80* if they would be assigned a 0% risk weight under Articles 78 to 83; exposures that do not meet these criteria, whether exempted from Article 111(1) or not, shall be treated as exposures to a third party.

Amendment

(f) exposures to counterparties referred to in *Article 80(7) and (8)*, **excluding Article 80(7)(d)**, if they would be assigned a 0 % risk weight under Articles 78 to 83; exposures that do not meet these criteria, whether exempted from Article 111(1) or not, shall be treated as exposures to a third party.

Or. en

Amendment 112
Sharon Bowles

Proposal for a directive – amending act

Article 1 – point 21 – point b – point ii a (new)

Directive 2006/48/EC

Article 113 – paragraph 3 – subparagraph 1– point h

Text proposed by the Commission

Amendment

(ii) Point (h) is replaced by the following:

(h) asset items constituting claims on central banks in the form of required minimum reserves held at these central banks, and asset items constituting claims on central governments in the form of statutory liquidity requirements held in government securities and which are denominated and funded in the national currencies of the borrowers;

Or. en

Justification

Some countries require minimum cash reserves to be kept at the country's central bank or a special liquidity requirement to hold a certain portion of their deposits in government bonds of that country.

Both such minimum cash reserves and special liquidity requirements should be exempted from the Large exposure calculation too.

Amendment 113
Sharon Bowles

Proposal for a directive – amending act

Article 1 – point 21 – point b – point iv

Directive 2006/48/EC

Article 113 – paragraph 3 – point j

Text proposed by the Commission

Amendment

(iv) Points (j) to (t) are deleted.

(iv) Point (j) is deleted.

Justification

Documentary credits facilitate international trade by providing certainty of payment for goods or services supplied by an exporter providing the requirements of the documentary credit are met by the exporter.

Documentary credits (including those which are not self liquidating) are intrinsically and historically low risk as they are secured against the underlying goods being financed. In the unlikely event of a default this gives the bank a range of options which it can use to mitigate the risk, such as returning the goods to the supplier, on-selling the goods to the ultimate purchaser and on-selling the goods to a third party.

Amendment 114
Zsolt László Becsey

Proposal for a directive – amending act
Article 1 – point 21 – point b – point iv
Directive 2006/48/EC
Article 113 – paragraph 3 – point j

Text proposed by the Commission

(iv) *Points (j) to (t) are deleted.*

Amendment

(iv) *Point (j) is replaced by the following:*
"(j) asset items constituting claims and other exposures to institutions, with a maturity of three months or less, but not constituting such institutions' own funds;"

Justification

The top priority across all over the European Union is the revival of the economy. This goal could be achieved sooner by enabling a more reasonable interbank exposures' treatment.

Amendment 115
Jean-Paul Gauzès

Proposal for a directive – amending act
Article 1 – point 21 – point b – point iv
Directive 2006/48/EC
Article 113 – paragraph 3 – point j

Text proposed by the Commission

(iv) *Points (j) to (t) are deleted.*

Amendment

(iv) *Point (j) is replaced by the following:*
"(j) exposures to an institution with
maturity of three months or less;"

Or. en

Amendment 116
Zsolt László Becsey

Proposal for a directive – amending act
Article 1 – point 21 – point b – point iv a (new)
Directive 2006/48/EC
Article 113 – paragraph 3 – points k to q

Text proposed by the Commission

Amendment

(iva) Points (k) to (q) are deleted.

Or. en

Justification

The top priority across all over the European Union is the revival of the economy. This goal could be achieved sooner by enabling a more reasonable interbank exposures' treatment.

Amendment 117
Jean-Paul Gauzès

Proposal for a directive – amending act
Article 1 – point 21 – point b – point iv a (new)
Directive 2006/48/EC
Article 113 – paragraph 3 – points k to q

Text proposed by the Commission

Amendment

(iva) Points (k) to (q) are deleted.

Or. en

Amendment 118

Sharon Bowles

Proposal for a directive – amending act

Article 1 – point 21 – point b – point iv a (new)

Directive 2006/48/EC

Article 113 – paragraph 3 – point k to q

Text proposed by the Commission

Amendment

(iva) Points (k) to (q) are deleted.

Or. en

Justification

Documentary credits facilitate international trade by providing certainty of payment for goods or services supplied by an exporter providing the requirements of the documentary credit are met by the exporter.

Documentary credits (including those which are not self liquidating) are intrinsically and historically low risk as they are secured against the underlying goods being financed. In the unlikely event of a default this gives the bank a range of options which it can use to mitigate the risk, such as returning the goods to the supplier, on-selling the goods to the ultimate purchaser and on-selling the goods to a third party.

Amendment 119

Zsolt László Becsey

Proposal for a directive – amending act

Article 1 – point 21 – point b – point iv b (new)

Directive 2006/48/EC

Article 113 – paragraph 3 – point r

Text proposed by the Commission

Amendment

(ivb) Point (r) is deleted.

Justification

The top priority across all over the European Union is the revival of the economy. This goal could be achieved sooner by enabling a more reasonable interbank exposures' treatment.

Amendment 120
Jean-Paul Gauzès

Proposal for a directive – amending act
Article 1 – point 21 – point b – point iv b (new)
Directive 2006/48/EC
Article 113 – paragraph 3 – point r

Text proposed by the Commission

Amendment

(ivb) Point (r) is deleted.

Amendment 121
Sharon Bowles

Proposal for a directive – amending act
Article 1 – point 21 – point b – point iv b (new)
Directive 2006/48/EC
Article 113 – paragraph 3 – point r

Text proposed by the Commission

Amendment

(ivb) Point (r) is replaced by the following:

"(r) 50 % of the medium and medium low/risk off-balance-sheet documentary credits and of the medium/low risk-off balance sheet undrawn credit facilities referred to in Annex II;"

Justification

Documentary credits facilitate international trade by providing certainty of payment for goods or services supplied by an exporter providing the requirements of the documentary credit are met by the exporter.

Documentary credits (including those which are not self liquidating) are intrinsically and historically low risk as they are secured against the underlying goods being financed. In the unlikely event of a default this gives the bank a range of options which it can use to mitigate the risk, such as returning the goods to the supplier, on-selling the goods to the ultimate purchaser and on-selling the goods to a third party.

Amendment 122

Zsolt László Becsey

Proposal for a directive – amending act

Article 1 – point 21 – point b – point iv c (new)

Directive 2006/48/EC

Article 113 – paragraph 3 – points s and t

Text proposed by the Commission

Amendment

(ivc) Points (s) and (t) are deleted.

Or. en

Justification

The top priority across all over the European Union is the revival of the economy. This goal could be achieved sooner by enabling a more reasonable interbank exposures' treatment.

Amendment 123

Jean-Paul Gauzès

Proposal for a directive – amending act

Article 1 – point 21 – point b – point iv c (new)

Directive 2006/48/EC

Article 113 – paragraph 3 – points s and t

Text proposed by the Commission

Amendment

(iv) Point (s) and (t) are deleted.

Or. en

Amendment 124
Sharon Bowles

Proposal for a directive – amending act
Article 1 – point 21 – point b – point iv c (new)
Directive 2006/48/EC
Article 113 – paragraph 3 – points s and t

Text proposed by the Commission

Amendment

(ivc) Points (s) and (t) are deleted.

Or. en

Justification

Documentary credits facilitate international trade by providing certainty of payment for goods or services supplied by an exporter providing the requirements of the documentary credit are met by the exporter.

Documentary credits (including those which are not self liquidating) are intrinsically and historically low risk as they are secured against the underlying goods being financed. In the unlikely event of a default this gives the bank a range of options which it can use to mitigate the risk, such as returning the goods to the supplier, on-selling the goods to the ultimate purchaser and on-selling the goods to a third party.

Amendment 125
Jean-Paul Gauzès

Proposal for a directive – amending act
Article 1 – point 21 – point d
Directive 2006/48/EC
Article 113 – paragraph 4 – introductory part

Text proposed by the Commission

Amendment

"4. **Member States may fully or partially exempt** the following exposures from the application of Article 111(1):

"4. The following exposures **shall be exempted** from the application of Article 111(1):

Or. en

Amendment 126
Paolo Bartolozzi

Proposal for a directive – amending act
Article 1 – point 21 – point d
Directive 2006/48/EC
Article 113 – paragraph 4 – introductory part

Text proposed by the Commission

Amendment

"4. Member States **may fully or partially** exempt the following exposures from the application of Article 111(1):

"4. Member States **shall** exempt the following exposures from the application of Article 111(1):

Or. en

Justification

In order to ensure a level playing field and to develop consistent supervisory approaches across the EU, all the national discretions contained in the proposal should be deleted. Applying the same rules at continental level would permit to conduct solvency analysis and impact assessments in normal times and in crisis situations.

Amendment 127
Donata Gottardi

Proposal for a directive – amending act
Article 1 – point 21 – point d
Directive 2006/48/EC
Article 113 – paragraph 4 – introductory part

Text proposed by the Commission

Amendment

"4. Member States **may fully or partially** exempt the following exposures from the application of Article 111(1):

"4. Member States **shall** exempt the following exposures from the application of Article 111(1):

Or. en

Justification

In order to ensure a level playing field and to develop consistent supervisory approaches across the EU, all the national discretions contained in the proposal should be deleted. Applying the same rules would permit to provide national authorities, colleges of supervisors and central banks with consistent and reliable data to conduct solvency analysis and impact

assessments in normal times and in crisis situations.

Amendment 128
Sharon Bowles

Proposal for a directive – amending act
Article 1 – point 21 – point d
Directive 2006/48/EC
Article 113 – paragraph 4 – point a

Text proposed by the Commission

(a) covered bonds falling within the terms of Annex VI, Part 1, points 68, 69 and 70;

Amendment

(a) **up to 75 % of** covered bonds falling within the terms of Annex VI, Part 1, points 68, 69 and 70;

Or. en

Justification

Covered bonds are not risk free. Although assets are pledged to cover bonds, in the event of under performance there is also exposure through the guarantee. Placing the exemption at 75% recognises that the guarantee is a less risky exposure so the larger part is exempted.

Amendment 129
Daniel Dăianu, Mariela Velichkova Baeva, Zsolt László Becsey

Proposal for a directive – amending act
Article 1 – point 21 – point d
Directive 2006/48/EC
Article 113 – paragraph 4 – point c

Text proposed by the Commission

(c) notwithstanding point (f) of paragraph 1 of this Article, exposures incurred by a credit institution to its parent undertaking, to other subsidiaries of that parent undertaking or to its own subsidiaries, in so far as those undertakings are covered by the supervision on a consolidated basis to which the credit institution itself is subject, in accordance with this Directive or with equivalent standards in force in a third

Amendment

(c) notwithstanding point (f) of paragraph 1 of this Article, exposures, **including participations or other kind of holdings**, incurred by a credit institution to its parent undertaking, to other subsidiaries of that parent undertaking or to its own subsidiaries, in so far as those undertakings are covered by the supervision on a consolidated basis to which the credit institution itself is subject, in accordance

country; exposures that do not meet these criteria, **where** exempted from Article 111(1) or not, shall be treated as exposures to a third party.

with this Directive or with equivalent standards in force in a third country; exposures that do not meet these criteria, **whether** exempted from Article 111(1) or not, shall be treated as exposures to a third party.

Or. en

Justification

The proposed wording is not absolutely clear with respect to equity exposures. A cross-border banking group has internal systems developed to efficiently protect the group against external crisis, and this stabilizing structure is possible due to the equity participation.

Amendment 130

Paolo Bartolozzi

Proposal for a directive – amending act

Article 1 – point 21 – point d

Directive 2006/48/EC

Article 113 – paragraph 4 – point f

Text proposed by the Commission

(f) asset items constituting claims on and other exposures to institutions, provided that these exposures do not constitute such institutions' own funds, do not last longer than the following business day **and are denominated in a currency of the Member State exercising this option, provided that such currency is not the euro.**

Amendment

(f) asset items constituting claims on and other exposures to institutions, provided that these exposures do not constitute such institutions' own funds **and** do not last longer than the following business day.

Or. en

Justification

On point (f), while we can support the possibility to exempt overnight interbank lending, it is clearly not acceptable to discriminate against the Euro. The reference to non-euro currencies should be removed.

Amendment 131
Donata Gottardi

Proposal for a directive – amending act

Article 1 – point 21 – point d

Directive 2006/48/EC

Article 113 – paragraph 4 – point f

Text proposed by the Commission

(f) asset items constituting claims on and other exposures to institutions, provided that these exposures do not constitute such institutions' own funds, do not last longer than the following business day **and are denominated in a currency of the Member State exercising this option, provided that such currency is not the euro.**

Amendment

(f) asset items constituting claims on and other exposures to institutions, provided that these exposures do not constitute such institutions' own funds **and** do not last longer than the following business day.

Or. en

Justification

On point (f), while we can support the possibility to exempt overnight interbank lending, it is clearly not acceptable to discriminate against the Euro. The reference to non-euro currencies should be removed.

Amendment 132
Robert Goebbels

Proposal for a directive – amending act

Article 1 – point 21 – point d

Directive 2006/48/EC

Article 113 – paragraph 4 – point f

Text proposed by the Commission

(f) asset items constituting claims on and other exposures to institutions, provided that these exposures do not constitute such institutions' own funds, do not last longer than the following business day **and are denominated in a currency of the Member State exercising this option, provided that such currency is not the euro.**

Amendment

(f) asset items constituting claims on and other exposures to institutions, provided that these exposures do not constitute such institutions' own funds **and** do not last longer than the following business day.

Justification

The Commission proposal, by discriminating between currencies, provides potential advantages for institutions of some Member states only, as those Member states which are in the euro-zone will not have the possibility to implement the discretion set out in letter f. The amendment redresses this and provides all Member states with the discretion provided for in letter f and thus avoids discrimination between Member states. The euro should be promoted as single currency and hence national discretions providing benefits only to those which have not adopted the euro as currency are difficult to conceive.

Amendment 133**Pervenche Berès****Proposal for a directive – amending act****Article 1 – point 21 – point d**

Directive 2006/48/EC

Article 113 – paragraph 4 – point f

Text proposed by the Commission

(f) asset items constituting claims on and other exposures to institutions, provided that these exposures do not constitute such institutions' own funds, do not last longer than the following business day **and are denominated in a currency of the Member State exercising this option, provided that such currency is not the euro.**

Amendment

(f) asset items constituting claims on and other exposures to institutions, provided that these exposures do not constitute such institutions' own funds, do not last longer than the following business day.

Justification

The discrimination made against the Euro in the EC proposal and extended to the Sterling in the Council compromise regarding the exemption of overnight lending is contrary to the objective of creating a level-playing field.

Amendment 134
Jean-Paul Gauzès

Proposal for a directive – amending act

Article 1 – point 21 – point d

Directive 2006/48/EC

Article 113 – paragraph 4 – point f

Text proposed by the Commission

(f) asset items constituting claims on and other exposures to institutions, provided that these exposures do not constitute such institutions' own funds, do not last longer than the following business day **and are denominated in a currency of the Member State exercising this option, provided that such currency is not the euro.**

Amendment

(f) asset items constituting claims on and other exposures to institutions, provided that these exposures do not constitute such institutions' own funds, do not last longer than the following business day.

Or. en

Amendment 135
Jean-Paul Gauzès

Proposal for a directive – amending act

Article 1 – point 21 – point d

Directive 2006/48/EC

Article 113 – paragraph 4 – point f a (new)

Text proposed by the Commission

Amendment

(fa) 50 % of medium/low risk off-balance-sheet documentary credits and of medium/low risk off-balance-sheet undrawn credit facilities referred to in Annex II and subject to the competent authorities' agreement, 80 % of guarantees other than loan guarantees which have a legal or regulatory basis and are given for their members by mutual guarantee schemes possessing the status of credit institution.

Or. en

Amendment 136
Othmar Karas

Proposal for a directive – amending act

Article 1 – point 21 – point d

Directive 2006/48/EC

Article 113 – paragraph 4 – point f a (new)

Text proposed by the Commission

Amendment

(fa) asset items constituting claims on central banks in the form of required minimum reserves held at these central banks, and which are denominated in the national currencies of the borrowers.

Or. en

Justification

Some countries require minimum cash reserves to be kept at the country's central bank. Such minimum cash reserves should be exempted from the Large exposure calculation.

Amendment 137
Jean-Paul Gauzès

Proposal for a directive – amending act

Article 1 – point 23

Directive 2006/48/EC

Article 115 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The value of the property shall be calculated, to the satisfaction of the competent authorities, on the basis of strict valuation standards laid down by law, regulation or administrative provisions. Valuation shall be carried out at least once ***a year.***

The value of the property shall be calculated, to the satisfaction of the competent authorities, on the basis of strict valuation standards laid down by law, regulation or administrative provisions. Valuation shall be carried out at least once ***every three years for residential real estate.***

Or. en

